

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Ms. Justine Wilbur on May 8, 2008.

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I: Claims 1-10, 17, and 18, drawn to a chemical compound, an inhibitor, a pharmaceutical composition, and a method of inhibiting poly (ADP-ribose) synthetase using a chemical compound of formula (1).

Group II: Claims 19-20, drawn to a method for treating ischemic diseases using a chemical compound of formula (1).

Group III: Claims 21-22, drawn to a method for treating inflammatory diseases using a chemical compound of formula (1).

Group IV: Claims 23-24, drawn to a method for treating neurodegenerative diseases using a chemical compound of formula (1).

Group V: Claims 25-26, drawn to a method for treating diabetes using a chemical compound of formula (1).

Inventions I-V are related as only process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the

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product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the claims are drafted as various method of using. See claims 19-26.

Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) The inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (b) The inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (c) The prior art applicable to one invention would not likely be applicable to another invention; and
- (d) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

4. During a telephone conversation with Ms. Justine Wilbur on May 8, 2008 a provisional election was made *without* traverse to prosecute the invention of Group I, claims 1-10, 17, and 18. Claims 19-26 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. The application has been amended as follows:

Claims 19-26 have been canceled.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

6. Newly submitted claims 19-26 are directed to an invention that is independent or distinct from the invention originally claimed for the reasons which are stated above.
7. Applicants preserve the right to file divisional applications drawn to the non-elected subject matter of claims 19-26.
8. Based upon the response filed February 19, 2008, the rejections based upon 35 USC 112, 1st and 2nd paragraphs are withdrawn.
9. Reference AA has been considered and initialed on the Information Disclosure Statement filed January 19, 2005. A copy of the initialed IDS is provided.
10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zinna N. Davis whose telephone number is 571-272-0682.
12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Zinna Northington Davis/
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Znd
05.08.2008